

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

FILED  
BILLINGS DIV.

2009 DEC 21 AM 10 05

**MELVIN BRIESE,**

**Plaintiff,**

**vs.**

**AMERIGAS, INC., a Corporation; )**

**ACE AMERICAN INSURANCE )**

**COMPANY, a Corporation; and )**

**SRS, LLC, a Company, )**

**Defendants. )**

**CV 08-63-BU-RFC-JCL**

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

PATRICK E. DUFFY, CLERK

BY \_\_\_\_\_  
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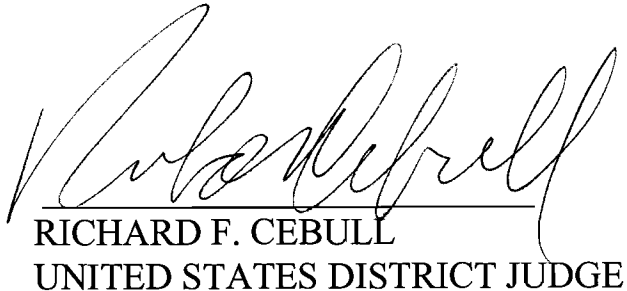
United States Magistrate Judge Jeremiah C. Lynch has entered Findings and Recommendations (*Doc. 127*) on Briese's Motion to Strike Certain Affirmative Defenses and for Summary Judgment on Others (*Doc. 108*). The ten day period for objection has expired without objection from any party. Although this failure to object waives all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), the Court must still review conclusions of law de novo. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation well grounded in law and fact and adopts them in their entirety. Accordingly, **IT IS HEREBY ORDERED** as

follows:

- (1) Brieese's Motion to Strike Certain Affirmative Defenses is **GRANTED IN PART AND DENIED IN PART** as set forth in Judge Lynch's Findings and Recommendations (*Doc. 127*);
- (2) Brieese's Motion for Summary Judgment on Ace American and SRS's tenth affirmative defense is **MOOT**; and
- (3) Brieese's Motion for Summary Judgment on Amerigas's fourth affirmative defense of multiple defendant liability is **DENIED** as set forth on pages 20-22 of the Findings and Recommendations (*Doc. 127*).

Dated this 21 day of December 2009.

  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE